

The Los Angeles County
Sheriff's Department

28th Semiannual Report

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Twenty-Eighth Semiannual Report

Detained in Los Angeles: Unauthorized Immigrants and the Los Angeles County Sheriff's Department

The LASD's primary duty is to protect and serve all residents of Los Angeles County, regardless of immigration status. To acquit itself of these obligations, the Department needs the active participation and trust of all residents in reporting and solving crime. Criminals do not distinguish between victims based upon immigration status. Witnesses and victims of crime, regardless of immigration status, must feel free to come forward to report crime, cooperate with law enforcement, and provide testimony and intelligence about criminal activity. At the same time, society cannot tolerate the presence of dangerous criminals in its midst, regardless of immigration status. The trick is to identify dangerous criminals in the undocumented population without causing the rest of the undocumented immigrants to cease cooperating with law enforcement out of the fear that such cooperation may lead to deportation. Equally important, the search for the undocumented must not enmesh citizens and documented immigrants in a dragnet that sweeps in and subjects to questioning anyone who looks like he or she came from south of the border or from elsewhere abroad.

To the degree that identification of deportable convicts requires cooperation and coordination between federal immigration authorities and local law enforcement, great care must be taken that only such a purpose be served. To that end, the Board of Supervisors has authorized the LASD to assist federal immigration authorities to identify dangerous undocumented convicts in the Los Angeles County jail population. Immigration and Customs Enforcement (ICE), the successor to INS, has had a presence in the jails since at least 2005. The current agreement between the County and ICE may be superseded. ICE has presented a proposed new agreement to the County on a take it or leave it basis. This report will contrast the old and proposed new agreement with ICE.

This report is the first of its kind to focus on how the LASD deals with unauthorized immigrants from initial arrest until release. We provide a snapshot of which foreign nationals are being arrested in Los Angeles County, for what crimes they are arrested, how they are impacted by the changing federal immigration law, and how the immigration law intersects with local law enforcement. This report is particularly relevant in Los Angeles, the county where a near majority of the population is Latino. California has the largest number of unauthorized immigrants and the greatest number of arrests of such persons nationwide.¹ The County currently has three relevant intersections with the US Department of Homeland Security (DHS). The first is the Secure Communities program, which governs how foreign-born arrestees are identified in the Los Angeles County jail population. The second is represented by a 287(g) Memorandum of Understanding (MOU) which may be superseded and possibly be replaced by a new 287(g) Memorandum of Agreement (MOA) with DHS. This agreement deals with interviewing and detaining undocumented persons. The third is an agreement which governs the use of the County's Mira Loma jail facility to house undocumented persons awaiting an immigration hearing or under a pending deportation order.

The report has three chapters. *Chapter 1* examines the Los Angeles County Jail ("Jail"). It discusses the ways in which an undocumented immigrant may be identified upon arrival at the jail. *Chapter 1* will also examine how the 287(g) program operates and how the proposed MOA, if enacted by the Board of Supervisors, will impact the 287(g) program.

Chapter 2 examines those foreign-born Los Angeles County Jail inmates upon whom an ICE hold was placed and who were ultimately transferred to ICE between July 1, 2008 and June 30, 2009. This section provides a broad overview of these inmates' stated country of origin, the arresting agency, the seriousness of their alleged offenses, and the range of their arresting charges. We found that a significant percentage of inmates, 28 percent, were charged with misdemeanors or infractions which, though minor, culminated in the inmate's ultimate transfer to ICE for deportation proceedings.

¹ Les Christie, *The Nation's Most Ethnically Diverse Counties*, CNNMoney.com, Aug. 2007, at http://money.cnn.com/2007/08/08/real_estate/most_diverse_counties/index.htm.

Chapter 3 explores the Mira Loma Detention Facility (“Mira Loma”), providing a firsthand glance into what the daily life of a detainee is like and how removal proceedings occur. We note that detainees at Mira Loma are either persons who have allegedly committed a civil violation of the federal immigration laws or are seeking asylum. To the extent that they have criminal records, they have already served their sentences. Nearly a quarter (approximately 22 percent) of detainees at Mira Loma consists of persons who committed no criminal acts or, at most, misdemeanors. Yet Mira Loma is a jail, albeit a minimum or moderate security jail facility. The LASD concedes as much: On its website, the LASD states, “We function as a regular County jail with the exception that the individuals we house are identified as detainees.” It does not house individuals who have committed crimes of violence or are otherwise considered seriously dangerous. ICE has other holding facilities for these persons elsewhere. Any examination of conditions at Mira Loma must take into account that the facility does not house persons with pending criminal proceedings.

Acknowledgments

We offer our thanks and appreciation to the following LASD and ICE personnel for their valuable assistance during this project: Sergeant Bob Blanks, Senior Deputy Linda Brodka, Captain Gerald Cooper, Lieutenant Kevin Kuykendall, Sergeant Deberah Lightel, Assistant Field Office Director David Marin (ICE), Captain Rod Penner, Lieutenant Timothy Perkins, and Lieutenant Joseph Ruggiero.

1. The Los Angeles County Jail: Identifying Foreign-Born, Undocumented Inmates

Introduction

Each day, approximately 600 men are booked into jail¹ at the Inmate Reception Center (IRC), LASD's primary intake and release facility for male inmates, and 500 are released from IRC.² At any given time, 20-25 percent of jail inmates are foreign-born.

Generally speaking, an arrestee's immigration status first comes into play when an arrestee is booked into jail. At booking, a deputy fills out a "Booking Slip," where he or she notes the arrestee's place of birth. The Department has no means of verifying this information but nonetheless uses it as a basis for determining if someone is foreign-born. This information is entered into various databases that are later utilized to decide whom to interview about immigration status. Also at booking, an arrestee's fingerprints are sent to various federal and state databases along with the arrestee's name and date of birth. In the past, pre-Secure Communities (see below), if the fingerprints matched information in the federal databases, the Department would be notified by teletype. A printout would note an arrestee's immigration status—whether he was previously deported or removed, is seeking asylum, is in the country on a work visa, or had previous convictions. If the analysis revealed that an inmate was in the country without proper documentation or had an alien number previously assigned by ICE, ICE would notify the Department that ICE had placed an immigration detainer on that inmate. Any inmate with a detainer would be sent to ICE for processing after serving his sentence.

Aside from these inmates with previous run-ins with ICE, anyone with self-declared foreign-born status is a possible candidate for an immigration interview

¹ In this report, we focus on the Los Angeles County Jail because that is where the Inmate Reception Center is located and from where the majority of inmates are released.

² It is too early to tell whether these numbers will change with the enactment of the Secure Communities program.

while incarcerated or upon release from IRC. The LASD only conducts interviews of inmates at Los Angeles County Jail post-conviction, before release; ICE agents may do so at any time, according to federal law. The LASD only interviews convicted inmates because of a concern by some members of the Board of Supervisors to limit LASD immigration enforcement in the jails to convicted criminals rather than all arrestees. In contrast to these inmates released from IRC, a foreign-born inmate released from court, housed at another facility, or female (always housed at another facility) would likely not receive an immigration interview, unless his or her crime was particularly heinous or there was a special order from the prosecutors.

I. The Secure Communities Program

On August 28, 2009, the Los Angeles County Jail became one of nearly eighty counties nationwide voluntarily to implement the Secure Communities program.³ This program provides access to more complete federal databases to identify undocumented arrestees. Secure Communities grants LASD custody assistants access to federal criminal and immigration records when an arrestee's fingerprints are taken during booking. If the fingerprints match those of a non-U.S. citizen or if the criminal record indicates that the individual has a prior conviction of a serious crime, ICE is notified electronically and an ICE hold is placed. The process for a follow-up interview by ICE or the LASD and possible deportation of the individual then begins.

According to ICE, the success of Secure Communities rests on efficiently and quickly screening all foreign-born detainees, after which ICE can identify and prioritize undocumented criminals. Thus, under Secure Communities, immigrant inmates will be divided into three levels, based on how great a risk ICE believes an inmate poses to the community:

- Level 1: inmates convicted of major drug offenses and violent offenses, such as national security, homicide, kidnapping, assault, robbery, narcotics crimes

³ Since Secure Communities is a County-wide program, it also applies to women at the Century Regional Detention Facility and other County facilities besides the Los Angeles County Jail.

that carry a sentence of greater than one year, and sex offenses;

- Level 2: inmates convicted of minor drug and most property offenses, including burglary, larceny, fraud, and money laundering;
- Level 3: inmates convicted of low-level offenses, such as public drunkenness, driving under the influence, and driving without a license.

We note that “Levels 1, 2, and 3” are not fully defined in the proposed MOA. **We recommend that if there is any negotiation over the scope of the MOA — which at this point ICE is reportedly unwilling to entertain—the scope of these levels must be more clearly defined so that the LASD understands all crimes which are a priority to ICE and ICE includes in Level 1 those crimes that are a priority to the Department.**

ICE, in its ideal world, would employ Secure Communities to identify and facilitate the deportation of all undocumented inmates. However, ICE apparently recognizes that it must begin its initiative by focusing only on Level 1 criminals for financial reasons, space constraints in federal immigration holding facilities, and the controversial nature of deporting undocumented immigrants who have committed at worst minor or trivial offenses. According to ICE, it will take between approximately \$930 million and \$1.1 billion nationwide to remove all Level 1 criminal unauthorized immigrants over the course of 3.5 years. After these immigrants are removed, ICE will turn to Levels 2 and 3 as well. As a result, ICE is currently only interviewing Level 1 inmates at the jail.

II. The Current 287(g) Program

Under Section 287(g) of the Immigration and Nationality Act, DHS may partner with state and local law enforcement agencies to train local law enforcement personnel to enforce federal immigration law. In so doing, participating states or counties must sign a Memorandum of Understanding (MOU). Under the MOU,⁴ law enforcement agencies agree that they will aid ICE in identifying and transfer-

⁴ It is our understanding that every MOU is essentially the same. See this MOU between San Bernardino County and DHS as an example of an MOU's terms, at http://islandia.law.yale.edu/wirc/pdfs/287_g_foia/San%20Bernardino%20County,%20CA.pdf.

ring criminal undocumented persons incarcerated in state and local facilities to ICE when their sentences are completed.⁵ Florida was the first state to sign an MOU with ICE in 2002; Los Angeles County followed in 2005.

When Los Angeles County first debated in 2005 whether to sign the MOU, the Department met with several community organizations about immigrants' rights under the program. A major concern was that ICE could learn of an inmate's illegal immigration status while in custody and place a hold on that individual, even if the inmate was later found to be innocent of the criminal charge that led to his incarceration.⁶ As a result, the Board of Supervisors and the Department reached an understanding:⁷ LASD 287(g) custody assistants would only interview convicted inmates.

No County general funds may be used toward the 287(g) program; only federal funds, including State Criminal Alien Assistance Program ("SCAAP") reimbursements, may be used.⁸

⁵ <http://www.ice.gov/doclib/pi/news/factsheets/060816dc287gfactsheet.pdf>

⁶ See Board of Supervisors Meeting Transcript, January 25, 2005 at [http://lacounty.info/BOS/SOP/TRANSCRIPTS/01-25-05%20Board%20Meeting%20Transcript%20\(C\).pdf](http://lacounty.info/BOS/SOP/TRANSCRIPTS/01-25-05%20Board%20Meeting%20Transcript%20(C).pdf).

⁷ Board of Supervisors Meeting Transcript, January 25, 2005 at [http://lacounty.info/BOS/SOP/TRANSCRIPTS/01-25-05%20Board%20Meeting%20Transcript%20\(C\).pdf](http://lacounty.info/BOS/SOP/TRANSCRIPTS/01-25-05%20Board%20Meeting%20Transcript%20(C).pdf).

See Supervisor Yaroslavsky addressing Chief Chuck Jackson: "Because of the timing of when we do this, that we are putting a potentially innocent individual, innocent of the crime for which he was arrested, not innocent of being here illegally but that's not why he was arrested, and the Sheriff has assured this Board and the public many times that he is not going to be an arm of the immigration service and policing, you said it earlier today yourself, that's not his role, so that, effectively, what you're saying is somebody who gets arrested and is deemed to be innocent could end up getting deported because of the information that you—because of the timing of when the information was collected by your folks and handed over to the federal authorities?"

See Supervisor Yaroslavsky : "All right. That would cover it. So that you would only interview after the adjudication of a conviction in this situation. That's my amendment."

See Chief Chuck Jackson addressing Supervisor Burke: "That's what the supervisors asked for and I'm agreeing that I can do that. The initial plan was to do it after arraignment, when being processed into the Inmate Reception Center, and, again, that was for operational efficiencies. If the Supervisor is asking that we delay the process until we can assure that the person has been convicted of a crime, much as we're doing with immigration customs enforcement today, I can live with that also. The numbers are there."

⁸ The SCAAP program is a federal grant program. Each eligible county may apply annually for reimbursement by the federal government for housing convicted unauthorized immigrants who have served four or more days in custody. There is an extensive application process, in which every undocumented immigrant inmate must be named, their country of birth listed, their alien registration number, number of days in custody, and more. The amount of funds are determined by a complex payment formula in which the total number of eligible days an inmate was in custody is calculated next to the average per diem rate per inmate, and the value of each inmate's correctional officer's salary costs associated with the inmate's eligible days.

http://www.ojp.usdoj.gov/BJA/grant/2008_SCAAP_Guidelines.pdf

Los Angeles County receives slightly less than \$15 million each year through SCAAP. SCAAP funds may be used extensively, such as for corrections officers' salaries, overtime costs, training and education for offenders, building new facilities, prison industries, and reentry programs.⁹

When persuading the Board of Supervisors in 2005 to enter into the MOU, the LASD argued that the County would be eligible for increased reimbursements under SCAAP because LASD would identify more unauthorized immigrants. This has been somewhat true, though perhaps not as much as the Department initially thought. In 2004, before entering into the MOU, Los Angeles County received a SCAAP award amount of \$13,876,508.¹⁰ In 2008, a few years after entering into the MOU, the County received \$14,028,961 for work conducted by the IRC in fiscal year 2006-2007.¹¹ It is a difference of approximately \$150,000. Thus, since entering into its partnership with ICE, it seems the County has become eligible for only slightly increased reimbursements under SCAAP.

LASD custody assistants, who are non-sworn civilians with jail training, are selected for the 287(g) program and undergo a four-week training conducted by ICE geared toward correctional personnel. Once training is completed, custody assistants become sworn federal officials with federal enforcement powers, including access to the federal immigration database, but remain non-sworn employees of the Department. The Department currently has eleven custody assistants assigned to the 287(g) program, in addition to ICE agents, who work at IRC. Their functions include interviewing inmates, taking statements, preparing affidavits, and drafting immigration detainer forms, which are later approved by ICE supervisors. Interestingly, LASD sworn officers cannot become custody assistants.

A 287(g) custody assistant's main task is to interview self-declared foreign-born inmates and determine whether they are in the country without proper authori-

⁹ <http://www.ojp.usdoj.gov/BJA/grant/scaap.html>. We have been told that while SCAAP funds are applied to the Jail, none are applied to Mira Loma.

¹⁰ <http://www.ojp.usdoj.gov/BJA/grant/04SCAAP.pdf>

¹¹ Information supplied by the LASD.

zation. If so, LASD custody assistants place an ICE hold on that inmate, regardless of the crime committed. According to custody assistants we spoke with, there is no discretion whether or not to place a hold. This may be because the Department is afraid of liability if it lifted the detainer and the inmate was released back into the community and committed a heinous crime. As a result, the LASD prefers to place holds on all undocumented persons and let ICE decide whether to lift a hold once the individual arrives at ICE's staging center.

Since the inception of the 287(g) program through September 2009, 37,580 foreign-born inmates have received immigration interviews from either ICE agents or 287(g) custody assistants while in custody. Approximately 44 percent of them received ICE holds as a result.¹² From January 2009 to September 2009, 17,333 foreign-born inmates have received immigration interviews. Of those interviewed by ICE agents (4627 foreign-born inmates), 25 percent were placed on a detainer after an interview; of those interviewed by LASD custody assistants (12,706 foreign-born inmates), 27 percent received ICE holds—despite the broader average since inception of approximately 44 percent.

We were amazed to find that there is no ability to track individually who is receiving an ICE hold through an interview. **The Department should create a tracking mechanism in AJIS that distinctly captures this data and thus enables analysis of it.**

Undocumented persons with ICE holds are sent to ICE for processing at its staging center in downtown Los Angeles. The ICE processing center sees approximately 200-300 people a week. It must process them within 12 hours of arrival¹³ and serve them within 72 hours. Undocumented persons in ICE custody are housed at Mira Loma or elsewhere; they may also be released on bond or electronic monitoring.

How or where they are ultimately housed by ICE depends on the immigration violation at issue and their criminal history, such as if they have a propensity to-

¹² These numbers derive from information provided to us by IRC in a memo dated September 15, 2009.

¹³ Processing means that they must be classified and given appropriate housing based on their medical condition or criminal history.

ward violence, are sexual predators, or are traffickers in drugs, guns, or money. The undocumented person either appears before a judge for a deportation hearing or is removed as determined by the federal authorities.

The 287(g) Interview

The following describes LASD custody assistants' interview practices both pre-Secure Communities and as it is currently conducted under the 287(g) agreement that may be superseded in October.

Post-conviction and prior to release, under 287(g), LASD provides ICE with a list of all foreign-born individuals to be released on a given day, and the LASD attempts to interview those being released to a special program or a rehabilitation facility. Aside from this group, foreign-born inmates awaiting their release at IRC often are held for further questioning if they cannot speak English or if they somehow excite the interest of the LASD or ICE while waiting in IRC for release. We question the wisdom of this apparently unbounded discretion as exercised by the LASD given the views of some of the Supervisors that serious criminals are the limited subject of County cooperation in federal immigration law enforcement. An inability to speak English is not a crime.

ICE officers also work off of another list composed of self-declared foreign born inmates with gang affiliation, either pre or post conviction. ICE then selects from the list individuals it wants interviewed. LASD custody assistants can also interview anyone on the list they choose, post-conviction, regardless whether the person was or was not selected by ICE. In practice, as a matter chiefly of staff and time constraints, the LASD prioritizes interviews.

Who conducts the interview depends on the inmate's conviction status. If an inmate has yet to be convicted, an ICE agent conducts the interview; if the inmate is serving the remainder of his sentence at jail or is about to be released, he would likely be interviewed by a custody assistant.

The interview lasts approximately fifteen minutes depending on the level of cooperation. Questions include, "Where are you from?" "Where did you cross the border?" and "When did you enter the country?"¹⁴ Inmates also are asked identifying information, such as type and location of tattoos and scars, in case ICE needs to identify the inmate in the future.

We were present for one interview which demonstrated the broad sweep of those receiving interviews. In this interview, an inmate was about to be released on electronic monitoring to serve the remainder of his sentence for a drug-related charge. Even though he had a valid green card and a Superior Court judge had ordered his early release on electronic monitoring, he was taken from the release area for an interview because he was self-declared foreign-born and convicted of a drug felony. As a result of the interview, the custody assistant cancelled the electronic monitoring and placed an ICE hold instead. The inmate was told he would now serve his full sentence in custody. ICE would pick him up after time served and he would appear before an immigration judge. While waiting to see that judge, which may take several months, he could be released on bond, electronic monitoring, or required to stay in an ICE facility. That would be decided by ICE upon processing.

While LASD's goal has been to interview all self-declared foreign-born inmates in the facility, there are simply too many to interview all of them. For example, on a day at the jail in 2008, there were 832 foreign-born inmates.¹⁵ Forty-three inmates were interviewed about their immigration status. (As a result of the interview, half (21) received ICE holds and half (22) were released back to the community.¹⁶) Custody assistants usually manage to interview all self-declared foreign-born inmates being released to work release programs, electronic monitoring, or a drug rehabilitation facility. But they cannot interview everyone. Inmates transferring to state prison are generally not interviewed because they will receive an ICE interview there. Generally speaking, no female inmates and no

¹⁴ The Department asserts that many foreign-born inmates name Mexico as their birthplace, even if they are from another country, so that they can be removed there and more easily reenter the United States. We have no way of knowing if this is indeed the case.

¹⁵ Printout received from IRC dated November 6, 2008.

¹⁶ Printout received from IRC, labeled "Week of October 20 through October 24, 2008."

**Catholic Charities:
The Esperanza Project**

A new program in the jail run by Catholic Charities of Los Angeles, The Esperanza Project, was initiated in October 2008 and provides self-declared foreign born inmates with more information about the 287(g) program and deportation process. This outside agency visits with inmates three times a week and provides classes to them.

The instruction focuses on immigration law, discussing types of criminal convictions and how they impact immigration outcomes, burdens of proof in immigration proceedings, types of legal analysis that a public defender should provide an immigrant, an explanation of what happens after one receives an ICE hold and after they finish serving time in jail, as well as removal procedures. In addition, the Esperanza Project meets with each inmate in the class to assess the likelihood of that person being removed from the country and whether he would qualify for any form of relief. We commend the Esperanza Project for expanding its important work to the Los Angeles County Jail and informing self-declared foreign born inmates on the often difficult to understand immigration and conviction process before them.

male inmates released from facilities other than IRC receive interviews about their immigration status.

III. Memorandum of Agreement

Under the proposed 287(g) MOA, ICE would substantially change the way it will operate. In addition to Secure Communities, ICE seeks to increase local law enforcement participation in federal immigration enforcement. If enacted, the MOA will increase the processing responsibilities of custody assistants to identify, interview, and process for removal certain criminal undocumented inmates in Los Angeles County Jail. The proposed MOA concentrates on Level 1 criminal immigrants (convicted drug offenders, murderers, rapists, and kidnappers). In order to achieve this new goal, the MOA seeks to bring about several significant changes discussed below.

A. ICE Priorities

While the previous MOU left vague whether ICE agents or LASD custody assistants would decide who received immigration interviews and ICE holds, the new MOA reallocates that decision-making solely to ICE.

Under the proposed MOA, Level 1 inmates are ICE's highest priority.¹⁷ Therefore only they will receive 287(g) interviews and, as a result, ICE holds. According to

¹⁷ See the MOA, "Standard Operating Procedures," page 21, "...[T]he following list reflects the categories of aliens that are a priority for arrest and detention with the highest priority being Level 1 criminal aliens. Resources should be prioritized..."

our discussions with ICE staff, Levels 2 and 3 self-declared foreign born inmates will also receive follow-up interviews if they were previously deported or absconded from their removal orders.

Under the old MOU, 287(g) LASD custody assistants only interviewed inmates post-conviction, mainly persons in what are now defined as Levels 2 and 3. Because Level 1 offenders are generally state prison bound, they did not receive interviews at jail; instead, they would be interviewed by ICE officers in state prison. Under the new MOA, the burden and additional expense of interviewing and placing ICE holds on prison-bound Level 1 inmates will be placed on the LASD. This may require a reallocation of funds, whether they are SCAAP or County funds.

B. Processing All Necessary ICE Paperwork

Under the previous MOU, LASD custody assistants' main roles were as aides to ICE agents at the jail, conducting interviews before an inmate was released to the community and helping with paperwork. ICE agents oversaw the decisions on whom to hold further and conducted all document gathering for removal proceedings.

The proposed MOA shifts most of the work previously performed in the jail by ICE to custody assistants, thereby dramatically increasing the paperwork burden and time constraints under which IRC will have to operate. Particularly of interest is the **actual** transfer to the *LASD* (in its capacity as a federal agent) of all responsibility for preparing a case for the federal government to deport an undocumented person. While the original MOU provided for the same level of responsibility for LASD custody assistants, it was never actualized. In practice, ICE retained responsibility for the majority of paperwork and processing. Under the new MOA, custody assistants will now be required to fulfill those obligations. The Standard Operating Procedures ("SOP") accompanying the proposed MOA spell out these terms. The LASD is, within 24 hours of an ICE hold, to pro-

cure all documentation of conviction necessary to put an undocumented person into removal proceedings or to support prosecution of previously removed criminal immigrants, including relevant gang data.

This is of concern for several reasons, the most important of which is that it uses local law enforcement to do all the paperwork necessary to support deportation or prosecution under federal law. Previously, the Board of Supervisors did not countenance that level of LASD involvement in deportation and prosecution proceedings. Second, the IRC currently lacks the staff and resources necessary to complete the full package for each inmate with an ICE hold in time for his transfer to ICE—a deadline set at twenty-four hours under the SOP. This requirement will place an inordinate strain on IRC’s already overburdened staff. Third, in order to have the package ready by the time the inmate is set for transfer, LASD custody assistants would have to begin preparing the paperwork while the inmate is in custody, pre-conviction. The immigration interview, photographing, obtaining of court documents, and other paper processing would have to occur before a conviction is handed down in order for the LASD to abide by the time constraints of the proposed MOA. As a practical matter, the proposed MOA by necessity moves the immigration scrutiny process up before conviction— at variance to what we believe to be certain Supervisors’ intent. To our knowledge, the LASD will not be reimbursed for this additional work. The degree to which the proposed MOA turns LASD into a primary enforcer of federal immigration law is indeed breathtaking,

Conclusion

We are concerned that under the proposed MOA, the LASD will have nearly complete responsibility for processing inmates for deportation. While the original MOU placed the same level of responsibility on the LASD, in practice, ICE had the responsibility to process inmates for deportation. We believe that the Board of Supervisors’ majority intent did not encompass County involvement with federal immigration enforcement to this degree.

We are also concerned that the proposed MOA shifts most of the work previously performed in the jail by ICE to IRC, thereby dramatically increasing the paper-work burden and time constraints under which IRC will have to operate. This will place a great administrative and resource strain on the IRC, currently operating with only eleven custody assistants and two vacancies. To our knowledge, the County will not be reimbursed for this additional work.¹⁸ We began this chapter describing the delicate balance between protecting and serving all residents of Los Angeles County regardless of immigration status and removing undocumented persons who are serious criminals. The County must carefully consider whether Secure Communities and the proposed MOA, taken together, upset that balance or reinforce it.

¹⁸ There are other additional costs imposed by the MOA. Under the MOA, LASD personnel costs for travel, housing and per diem while attending 287(g) training will be placed on the Department, with ICE having the right to reimburse only in select instances. It is left unanswered whether the LASD or ICE will cover the cost of interpretation services.

2. Inmates with ICE Holds at the Los Angeles County Jail

Introduction

This chapter examines undocumented immigrants in the jail who were ultimately transferred to ICE between July 1, 2008 and June 30, 2009. As part of our look at LASD immigration issues, we wished to have a clearer picture of the immigrants receiving ICE holds at the jail—either as a result of matches between fingerprints and law enforcement databases or as the result of an immigration interview by ICE or the LASD. This section provides a broad overview of these inmates' stated country of origin, the arresting agency, the seriousness of their alleged offenses, and the range of their arresting charges. Since one inmate may have been charged with any number of offenses, we analyzed the data in two ways. First, we looked at the full range of booking charges associated with inmates with ICE holds, noting that most inmates have more one charge. Second, we looked at the most serious charge filed for each inmate, according to the LASD's charge ranking system.

We found that a significant percentage of inmates, about 28 percent, were charged with misdemeanors or infractions which, though minor, resulted in the inmate's ultimate transfer to ICE for deportation proceedings. Examples of these charges included driving without a license (346 inmates), disorderly conduct (26 inmates), public drunkenness or intoxication (133), breaking liquor laws (23 inmates), and displaying a false ID (74 inmates). We also found that the great majority of inmates—about 89 percent—had been convicted of at least one charge at the time of transfer to ICE.

The LASD provided us with records for 14,264 inmates in the Los Angeles County Jail between July 1, 2008 and June 30, 2009 who had both declared them-

selves foreign-born and had a hold or warrant placed on them from another jurisdiction, including ICE.¹ Of those, 11,944 (84 percent) received ICE holds

Transfer to	Holds		Total
	ICE	Other	
ICE	10,531	305	10,836
Other	1,413	2,015	3248
Total	11,944	2,320	14,264

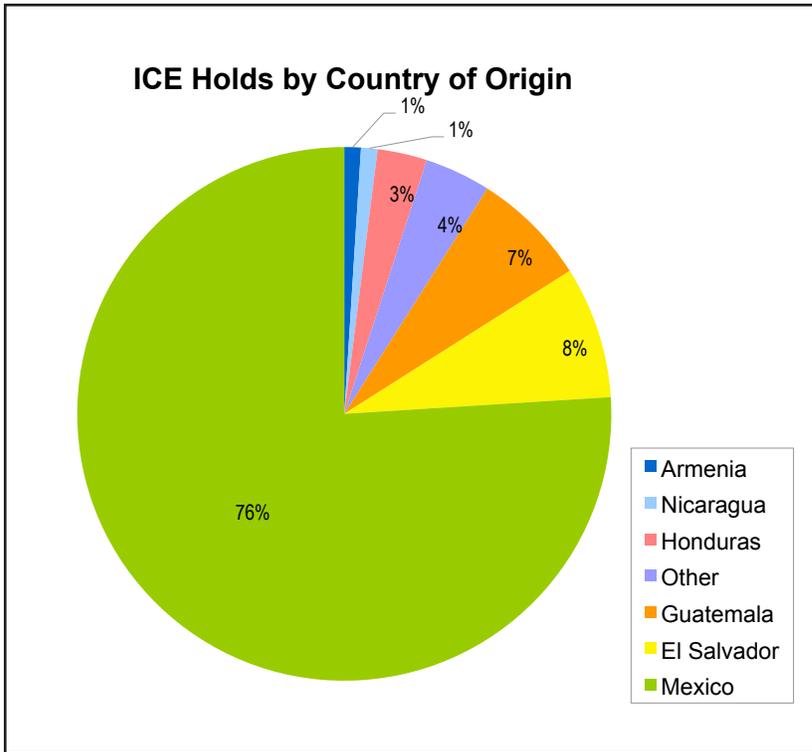
at the inception or during their stay at the jail, with the other 16 percent having holds from other federal, state, or local jurisdictions. The vast majority of inmates with ICE holds—10,531 persons or about 88 percent—was ultimately sent to ICE. The rest were sent to correctional facilities, usually a state prison, and were presumably turned over to ICE for deportation after serving their sentence. Three hundred and five additional inmates were sent to ICE despite not having an immigration hold in their record; for the purposes of our analysis, we include that group in the total number of inmates—12,249—with ICE holds (“ICE holds”).

I. Demographics

Approximately 97 percent of inmates with immigration holds were men. This is disproportionately large compared with the Los Angeles County jail’s overall demographic; men made up only 83 percent of all persons released during that period. Some of this discrepancy is likely because the staff at the women’s Inmate Reception Center, located off-site at the Century Regional Detention Facility, is not trained or qualified to conduct immigration status interviews, and ICE officers rarely visit the facility.

About 96 percent of those with ICE holds identified themselves as Latino/Hispanic. The next largest group was “Other,” with two percent, followed by African-Americans and whites with about one percent each. All other groups made up less than one percent.

¹ This data was extracted from the LASD’s Automated Justice Information System (AJIS), the Department’s arrest, booking, and jail management database. The Department maintains a secondary tracking system that notes the total number of inmates interviewed by the LASD and ICE, as well as the number of those sent to ICE, but it does not contain demographic or charge information about those inmates. That system reports that 11,013 inmates were transferred to ICE, a slight difference which is likely due to different database functions and parameters.



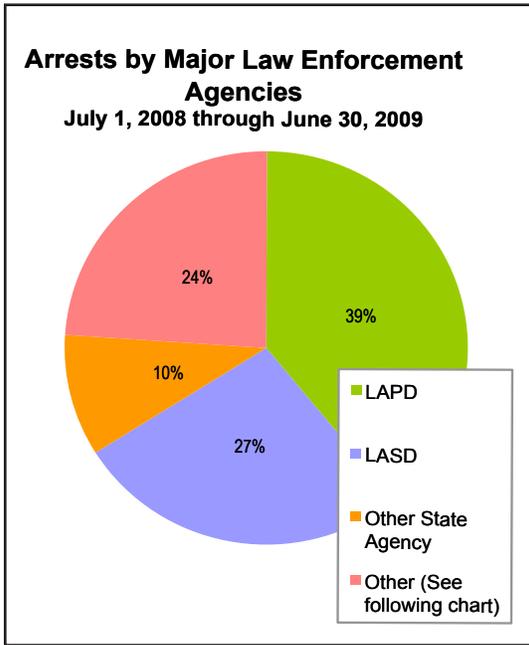
Of those individuals who identify themselves as Latino or Hispanic, the largest group claimed to be from Mexico. Overall, as illustrated in this chart, we found that inmates from just six countries—Mexico, El Salvador, Guatemala, Honduras, Nicaragua, and Armenia—made up nearly all of the

inmates with ICE holds, with all other countries composing just four percent of the group.

Other countries represented by 25 or more inmates during the study period included: The Philippines (43 inmates), Iran (41), Korea (39), Belize (33), Vietnam (32), Peru (31), Cuba (28), China (26), and Jamaica (25).

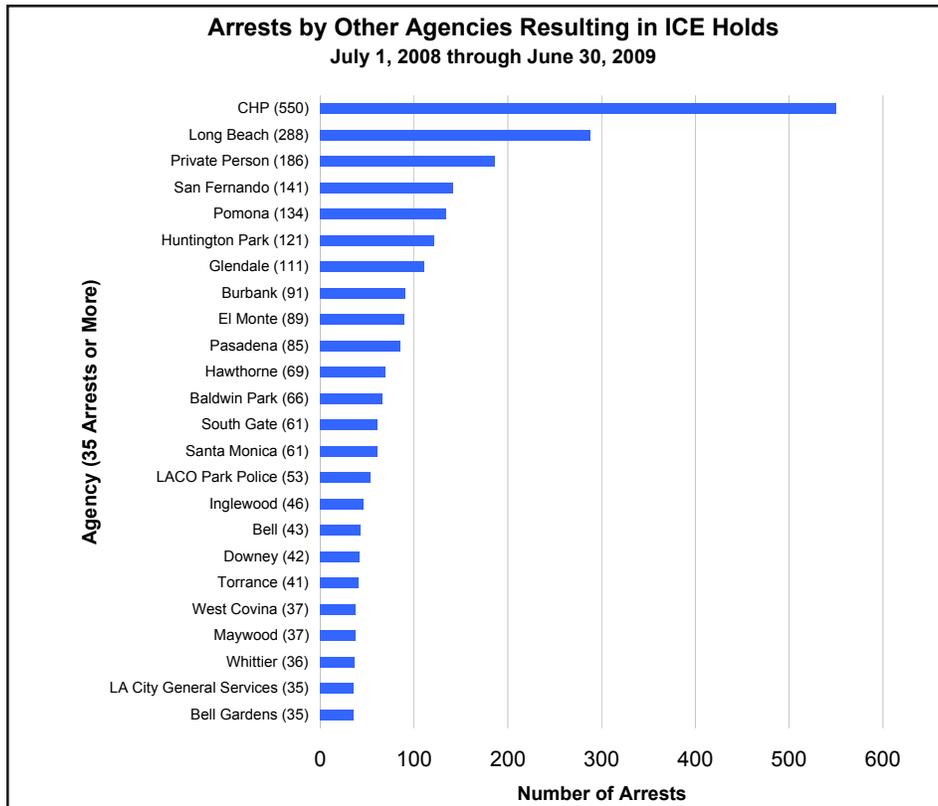
These numbers and percentages should be taken with a grain of salt. The Department’s tracking of country of origin is haphazard at best. Although there are designated two-letter codes for each country, their use was disorganized and inconsistent. Analysis was made even more difficult by the fact that the two-letter code is generally followed by a city, state, or province. These were also inconsistent and often misspelled. **We strongly recommend that the Department develop a consistent and circumscribed field for country of origin with a separate field for secondary origin information, such as city or state, if applicable.**

II. Arresting Agency



Inmates with ICE holds were arrested by a variety of agencies across LA County—with at least 75 local, state, and federal agencies contributing. The Los Angeles Police Department (LAPD) made by far the largest number of arrests of inmates in this group, with 4,770, or 39 percent of all arrests. The next largest number of arrests was made by the LASD itself—3,264, or 27 percent of arrests—followed by “other state agencies” with 1,171 arrests (10 percent).

This chart shows other agencies who contributed more than 35 arrests of immigrants who would ultimately receive an ICE hold.



III. Criminal Charges

To obtain a clearer picture of undocumented inmates with ICE holds, we reviewed the various charges that were filed by the arresting law enforcement agencies. In discussing these data, we must make a few important clarifications:

- First, these charges refer to current charges filed following an arrest during our review period. They do not include past criminal history, as that information was unavailable to us. Thus, a person who was turned over to ICE on a minor infraction may have had convictions for more serious crimes in the past. Accordingly, it is important not to conclude that simply because the current charge is minor, the individual is therefore not a serious criminal based upon his entire criminal history.
- Second, the charges referenced in this analysis refer to charges filed by the law enforcement agency at the time of booking, and not necessarily final charges. They also differ from arrest charges, which may be modified following initial arrest. We use booking charges because, in general, they are the ones that result in the person being held at the jail.
- Finally, the booking charges may not reflect the charges for which the individual was ultimately convicted, or if he was convicted at all. Although the LASD's booking database does not have full access to court records, it does provide some indication of the final disposition of the charges. To the extent possible, we tracked these dispositions, particularly in cases where the charges were very serious. However, because a person in jail may be flagged by ICE regardless of conviction, our analysis focuses primarily on charges, rather than convictions.²

A. All Charges

The 12,249 inmates in our sample with ICE holds amassed 21,007 separate charges. Of those, approximately 41 percent were felonies, 50 percent were misdemeanors, one percent constituted infractions, and the remaining charges fell into the category of "other." These other types included, for example, removal

² As discussed, LASD policy requires that LASD interviews to determine immigration status occur following conviction and sentencing. An inmate may, however, receive an immigration hold due to a database flag or an interview by ICE personnel prior to going to court and regardless of disposition.

by ICE, probation violations, court orders, and other administrative proceedings. The majority of inmates—about 55 percent—had just one charge, with about 94 percent having three or fewer charges.³ Three inmates had nine charges each, the maximum for this group.

The 10,836 inmates of this group that were in fact transferred to ICE had a total of 18,396 charges among them. They either had not been convicted or were convicted of charges not serious enough to merit state prison.⁴ This group had a slightly higher proportion of misdemeanors than the larger group of ICE holds: misdemeanors made up 54 percent of all 18,396 charges, with felonies making up just 37 percent.

We also looked at the charges themselves to see what specific kinds of crimes or infractions the inmates with ICE holds were accused of. The chart on the next page lists those offenses for which 100 or more inmates with ICE holds were charged, including total number of charges and proportion of inmates with that charge.⁵

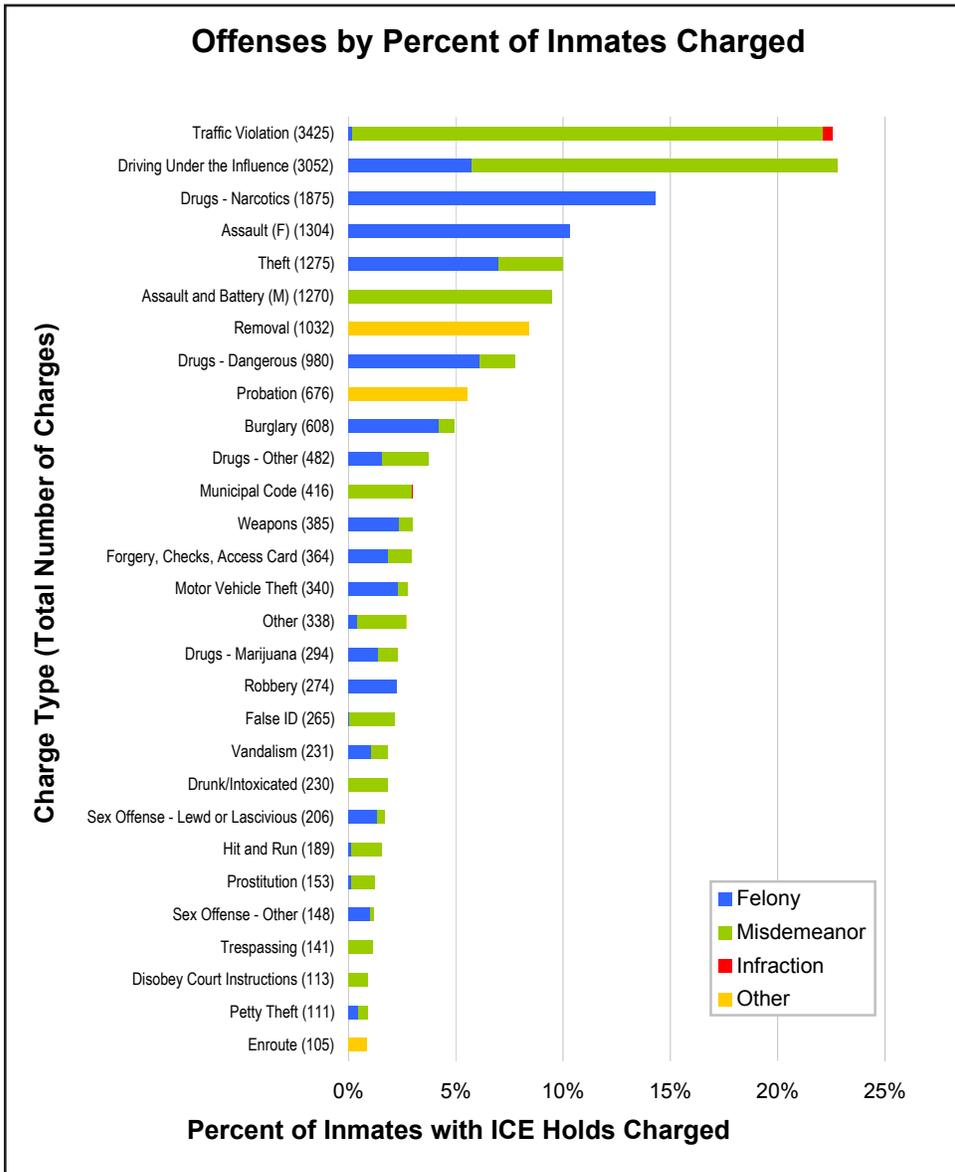
The two largest categories, involving nearly half of all inmates, were traffic violations (23 percent of inmates had at least one traffic charge) and charges of driving under the influence (23 percent), followed by narcotics charges (14 percent), felony assault (10 percent), felony theft (10 percent), and misdemeanor assault and battery (9 percent). In all, about 28 percent of all inmates were charged with drug offenses, and about three percent were charged with sex offenses. Note that because many inmates were charged with more than one offense, these percentages add up to more than 100 percent.

More serious, violent crimes were relatively rare. About four percent were charged with crimes such as murder, manslaughter, robbery, or rape while eight

³ Our original dataset contained more than 205,000 records. This is because, due to the relational nature of the AJIS database, the number of records for each inmate was the product of the number of arrest charges, the number of booking charges, and the number of charge dispositions.

⁴ We refer here to current charges. Inmates receiving holds may have past criminal convictions, which do not appear in their current file.

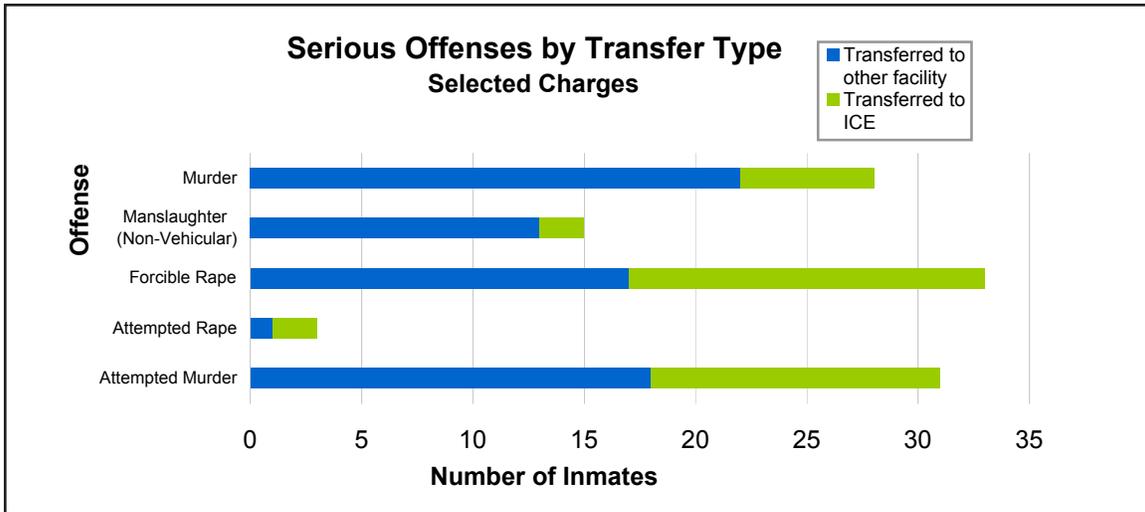
⁵ The criminal categories used in this chapter are based on classifications used by the California Criminal Justice Statistics Center, a project of the California Attorney General's office.



percent were charged with a serious felony assault.⁶ Of the 1020 charges of serious felony assault, about 14 percent resulted in the inmate being sent to state prison or another jurisdiction, as were 37 percent of the 274 robbery charges; the

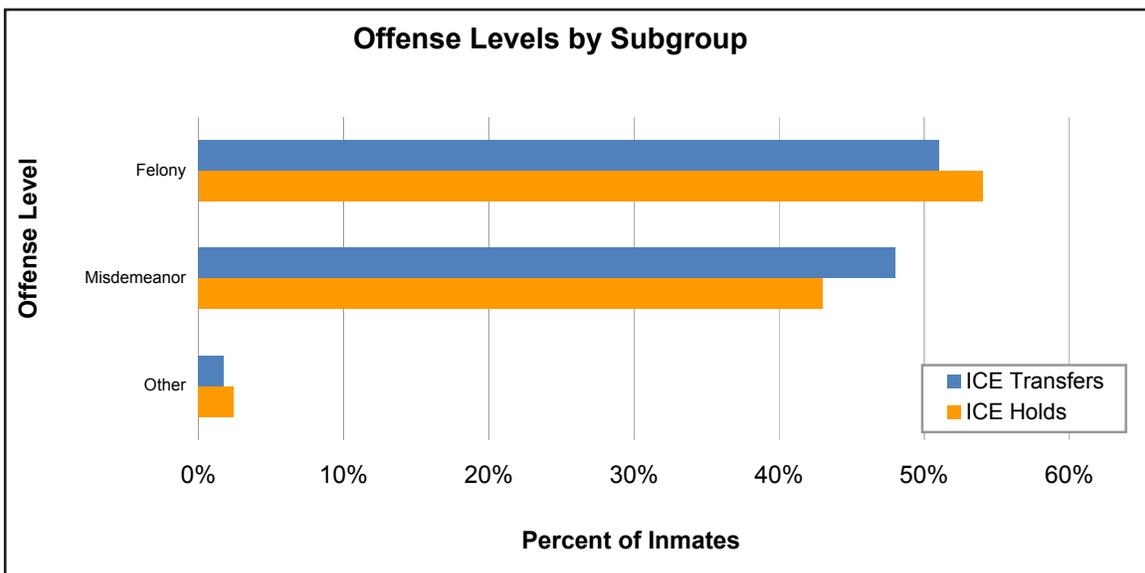
remaining inmates with these charges were transferred to ICE following what otherwise would be their release from LA County jail. The other categories of serious charges involved very few inmates (see below), most of whom were likely to be incarcerated in the United States before transfer to ICE. It appears that those who were sent to ICE rather than state prison were not convicted of the serious crime; either they were not convicted at all or served time on a lesser charge.

⁶ Felonies falling between 11 (the lowest rank) and 60 on the Sheriff's offense ranking were categorized as "serious" and include murder, manslaughter, rape, robbery, and some types of assaults.



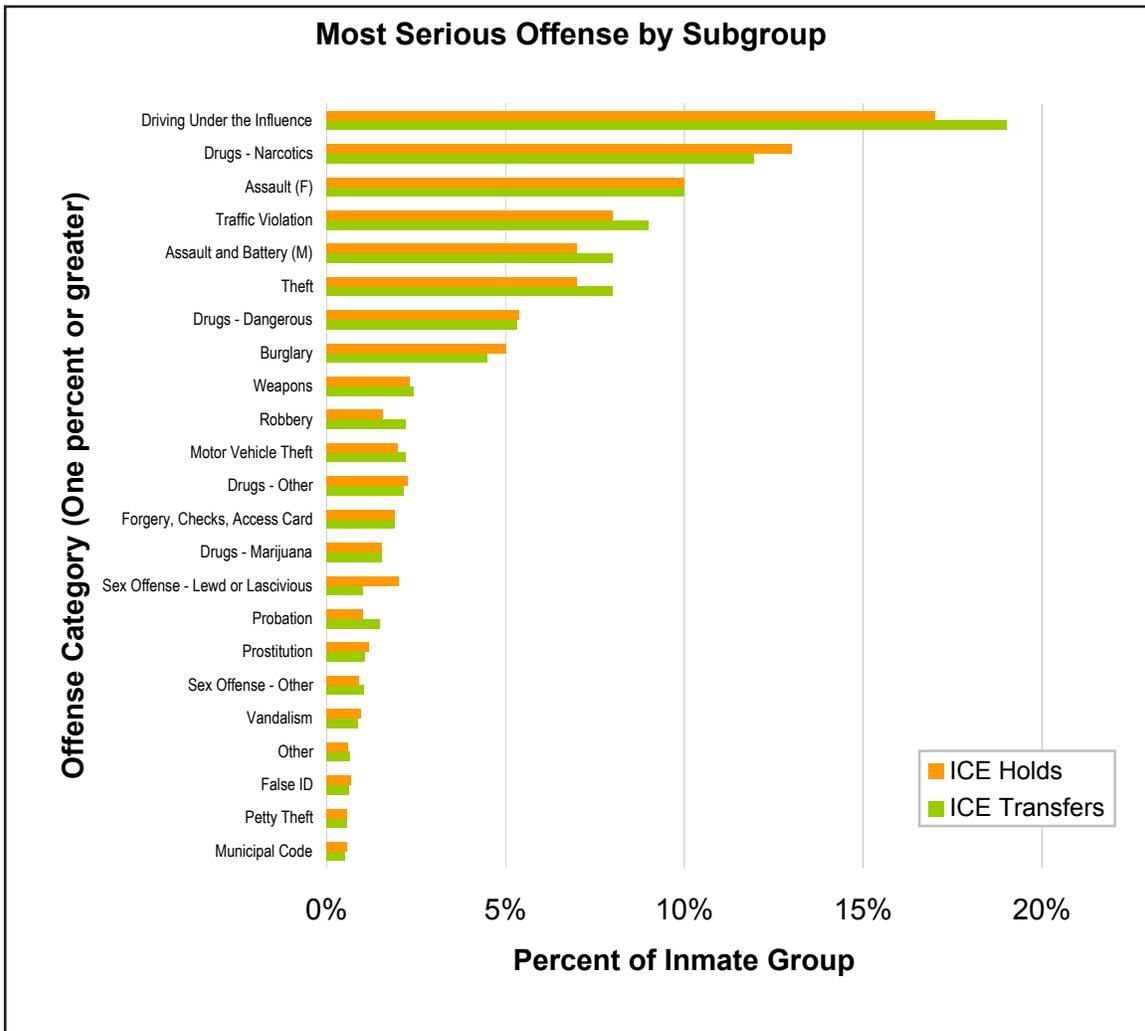
B. Most Serious Charge

To get a picture of the number of individuals and the relative seriousness of the charges against them, we conducted a second analysis, looking only at the charge that is considered the most serious, according to the LASD’s offense ranking. When looking only at the most serious charge, the balance of offense levels changes somewhat; felonies now make up 54 percent rather than 41 percent of charges, while misdemeanors make up just 43 rather than 50 percent.



When looking only at ICE transfers, or inmates that were transferred directly to ICE rather than another facility, we found that this group was slightly more likely to be charged with a misdemeanor than was the larger group, with similar percentages (51 and 48 percent each) of felonies and misdemeanors.

The following chart details the most common offense categories when looking only at each inmate’s most serious charge (it includes only those charges making up at least one percent of inmates). Because their most serious charge was not easily assessed, 94 inmates were excluded from this analysis, leaving a total of 12,155 subjects.⁷



⁷ To calculate the most serious offense for each unique booking number, our database used a ranking process based on the “stat code” system used by LASD, wherein charges are ostensibly ranked in decreasing seriousness. As such, our database automatically selected the charge with the highest level (felony, misdemeanor, infraction, and other), then lowest stat code for each booking number. In using this system, however, we discovered that a few stat codes—falling above 269—appeared out of order, apparently due to being added later than the others. Following a consultation with LASD personnel, we excluded cases where the relative seriousness of charges in this range could not easily and objectively be assessed automatically or during a manual review.

The largest category of inmates were those charged with driving under the influence, at 17 percent of ICE holds, followed by those charged with a narcotics offense (13 percent), felony assault (10 percent), and a traffic violation (8 percent). As the chart above illustrates, the subgroup of inmates sent directly to ICE by the LASD does not differ significantly in terms of most serious offense, although that group is slightly more likely to have less serious charges. Twenty-two percent of ICE holds were charged with a drug crime as their most serious crime, and three percent were charged with a sex crime (excluding rape).

In terms of the most serious category of crimes—murder, rape, robbery, assault and the like, the proportions continue to be very small. The numbers are roughly the same as those for all offenses, as these tend to be ranked as the most serious crimes and do not bear additional reporting. These crimes make up 11 percent of the most serious charges for ICE holds, and 10 percent for ICE transfers.

Minor Charges

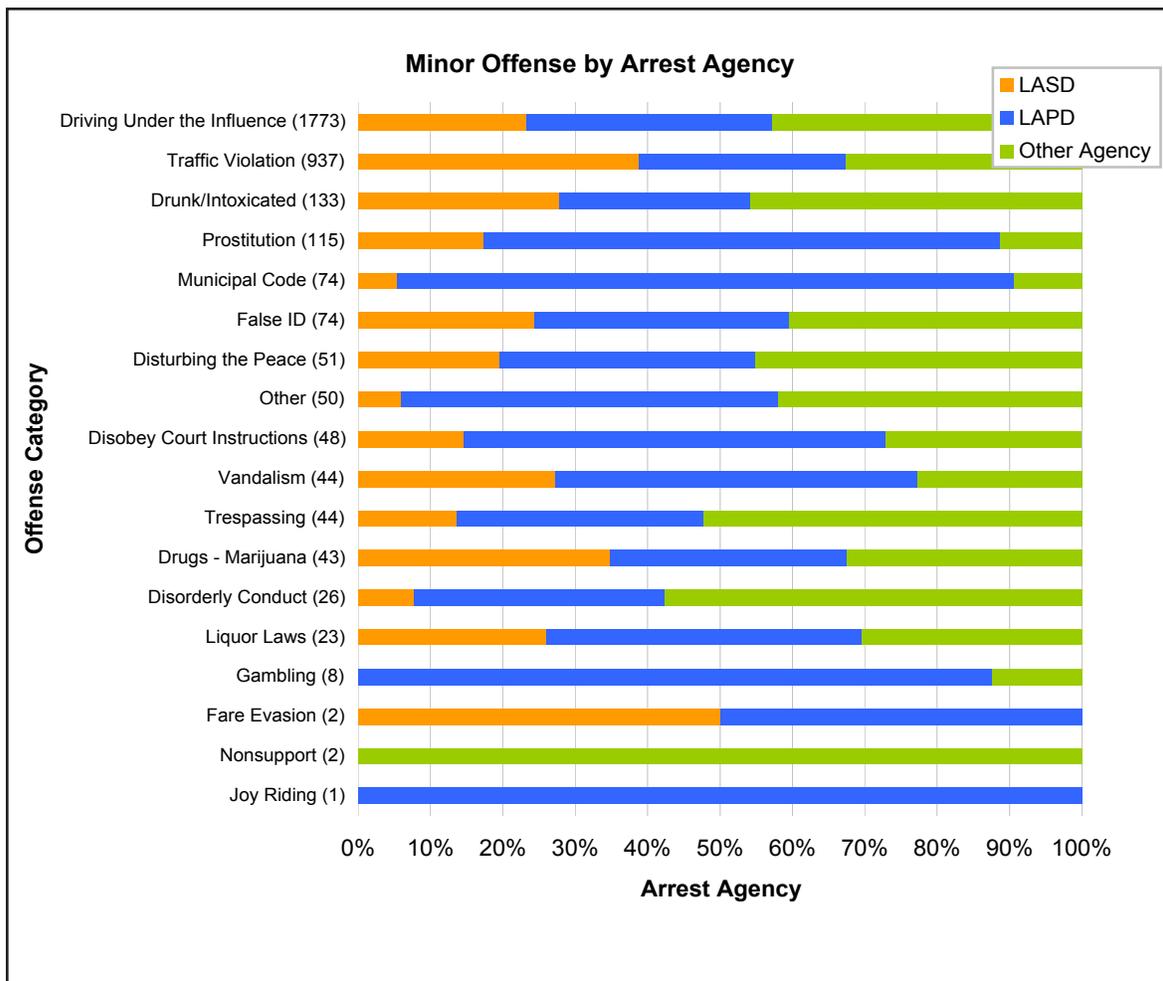
About 28 percent of all inmates ultimately receiving ICE holds were charged with relatively minor misdemeanors or infractions, including, for example, joy riding, fare evasion, presenting a false ID, municipal code violations, or traffic violations.⁸ The following chart details the number of inmates with ICE holds falling into categories that are generally considered less serious and, in some cases, usually result in a field or station citation rather than a booking into the jail. The largest categories are driving-related, with 2,710 inmates receiving driving under the influence (DUI) and traffic misdemeanors or infractions as their most serious current charge.⁹ We note, of course, that these charges may differ from the arrest charges, but that we find the booking charges to be the best measure of the conduct that resulted in arrest.

We do not know how many of those inmates have prior criminal convictions, nor do we know how many had an ICE hold placed on them following an interview with an LASD custody assistant (as opposed to a federal flagging mechanism or

⁸ We remind readers that an individual arrested on a minor charge may or may not have major convictions and their criminal history. We wanted to review the criminal histories of persons with ICE holds but could not do so feasibly from records of the LASD or the County.

⁹ Here, again, we rely on the LASD's stat code system to automatically identify the most serious offense.

ICE agent interview). We find it arguably at variance with the Board of Supervisors' intent that persons charged with offenses such as unlicensed driving, fare evasion, or minor municipal code violations would be subject to immigration proceedings. For example, the largest category of traffic violations was that of driving without a license, with 346 inmates receiving that charge. Not counting misdemeanor DUI charges, other minor charges with somewhat significant numbers of inmates included those of disorderly conduct (26 inmates), public drunkenness or intoxication (133), breaking liquor laws (23 inmates), and displaying a false ID (74 inmates). A full list of the major categories is below.

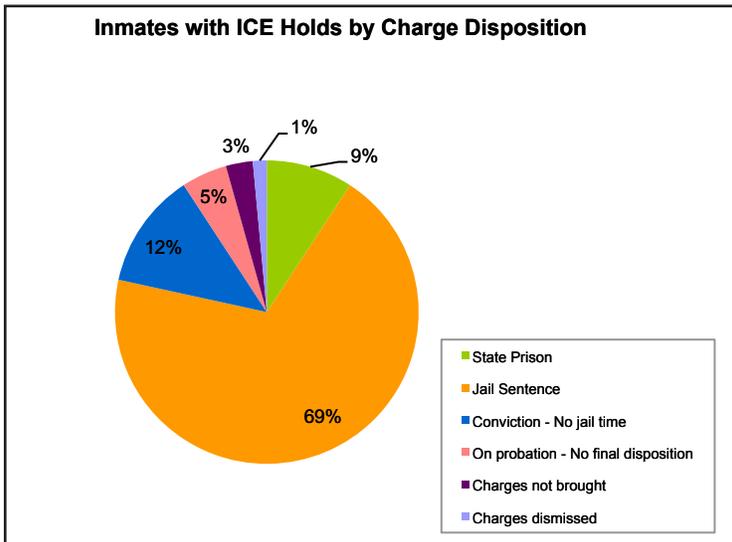


The majority of these arrests were made by the LAPD or the LASD. Current LASD policy specifies that most misdemeanor arrestees be released in the field or

from the station with a Notice to Appear (citation); field or station releasees are generally not checked for previous immigration violations, since that process occurs at jail upon booking. There are, however, arrests which are exempted from that policy, including those who are under the influence, cannot be released safely, cannot provide appropriate identification, refuse to sign the citation, or the like. As such, many of the arrestees in the categories mentioned in this section would still be subject to a search for ICE holds. Barring a prior immigration violation however, inmates with such charges should not be interviewed by LASD for the purposes of determining immigration status.

IV. Dispositions

Finally, we looked at the ultimate dispositions of each inmate’s charges, as tracked by AJIS. As the chart below illustrates, the great majority of inmates were convicted of at least one charge, with only four percent having their charges dismissed or otherwise not pursued. While the majority of inmates—about 69 percent—ultimately served a sentence in the County Jail before their release to ICE, a significant number of inmates—12 percent—would have been released, despite their conviction, had it not been for an ICE hold.



Despite their conviction, had it not been for an ICE hold. Lastly, about nine percent of all inmates were transferred to state prison due to a more serious conviction or a parole violation. It is expected that those inmates were or will be transferred to ICE following their completed prison sentence.

3. Mira Loma Detention Facility

Chapter 3 explores the Mira Loma Detention Facility (“Mira Loma,”), providing a firsthand glance into what the daily life of a detainee is like and how deportation proceedings occur. Detainees at Mira Loma have allegedly committed a civil violation of the federal immigration laws or are seeking asylum. To the extent that they have criminal records, they have already served their sentences. Approximately 22 percent of detainees at Mira Loma are individuals who committed no criminal acts or, at most, misdemeanors. Yet Mira Loma is a jail, albeit a low to moderate security jail facility, albeit in a campus like setting with lots of open space and light and air. But it is a jail. The LASD concedes as much: On its website, the LASD states, “We function as a regular County jail with the exception that the individuals we house are identified as detainees.” It does not house individuals who have committed crimes of violence or are otherwise considered seriously dangerous. ICE has other holding facilities for these persons elsewhere. Any examination of conditions at Mira Loma must take into account that the facility does not house anyone with a pending criminal charge. The reason for Mira Loma is the need for a safe and secure facility to house detainees and to prevent them from escaping before deportation.

I. Background Information

On July 15, 1941, the Mira Loma Detention Center (“Mira Loma”) first opened as the Polaris Flight Academy-War Eagle Field training R.A.F. and Canadian Air Cadets for World War II. Upon entering the war, the United States sent U.S. Army Air Force Cadets to train there as well. The facility closed in 1945 when the war ended.

The facility reopened from 1954-1979 as the Mira Loma Custody Facility. Operated by both the Los Angeles Sheriff’s Department (“LASD”) and the Los Angeles County Department of Hospitals, it housed inmates with tuberculosis. In

1983, the facility opened again due to the pressures of jail overcrowding. It expanded in 1986 to include female inmates. In 1993, Mira Loma Custody Facility closed again due to County budget cuts. It reopened in 1997 in its current form, as a facility housing federal detainees awaiting deportation hearings on a contract between the LASD and the United States Immigration and Naturalization Service (INS), later called the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE). At times, Mira Loma has served as temporary housing for Kurdish refugees and for detainees from China, found in intercepted cargo containers. Today Mira Loma serves as the largest public detention facility to contract with ICE nationwide.

Mira Loma currently functions as a low to medium security detention facility serving several counties: San Bernardino, Riverside, Ventura, Los Angeles, Orange County, and parts of Santa Barbara. Detainees with violent criminal histories leaving Los Angeles County Jail (“Jail”) are generally sent to facilities in Arizona or Texas instead of Mira Loma. In the past, Mira Loma tended to house detainee day laborers. In the last few years, its focus has shifted to asylum-seekers and detainees with alleged civil immigration violations, with or without prior criminal convictions. In June 2008, the LASD added 400 beds and can currently hold up to 1400 detainees.

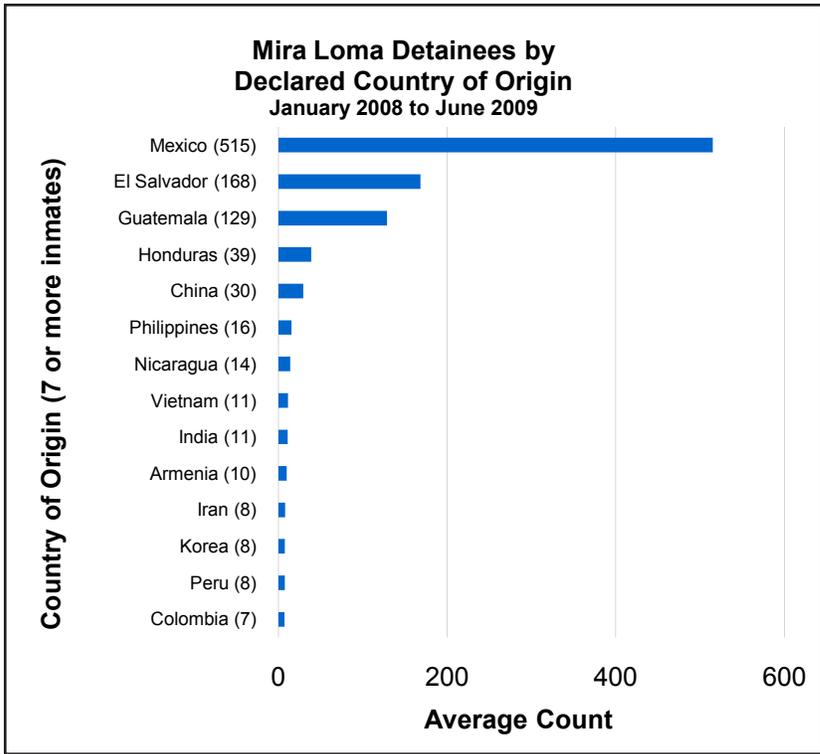
Mira Loma is a male-only facility. LASD manages all daily care such as housing, security, food, medical care, programming, schools, and chaplain services. Female detainees are sent to Santa Ana, California, or out of state. Children are sent to the Office of Refugee and Resettlement, such as one in Fullerton, California, where 60-80 children are held at a time. ICE oversees the legal aspects of Mira Loma: case processing, case management, the court system, and transport to and from Mira Loma.

Processing usually occurs in the afternoon or evening, when buses arrive with detainees from the downtown Los Angeles ICE intake center. We were told ear-

lier this year that detainees wait approximately four to six hours for their initial screening. Management currently contends that detainees wait on average two to three hours for their initial screening at Mira Loma, but can wait up to five hours if multiple lines are being processed. When a detainee is admitted, he receives a medical screening with a sixteen-credit screening form. Intake questions include a history of medical problems past and present, as well as mental health issues. Every detainee is supposed to have a comprehensive health appraisal, as required under the National Detention Standards, within fourteen days of arriving at Mira Loma. Management at Mira Loma contends that it is doing so. We have no reason to doubt it, although that we did not conduct an audit of it. As part of processing, in the winter months (end of September through March or April), detainees are issued long johns, beanie caps, and denim jackets in addition to the standard uniform.

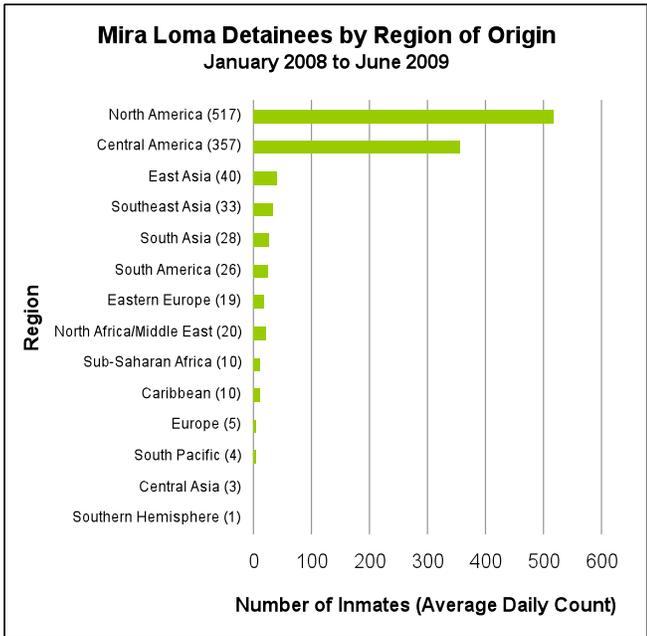
The average length of stay at Mira Loma is 44 days. If detainees choose voluntary deportation, this length of time shortens to five days. Detainees from countries such as Syria, Palestine, Cuba, Iran, and Vietnam usually remain longer at Mira Loma because these countries require proof of a birth certificate to accept them back. In addition, if a flight is required for deportation, the detainee can be at Mira Loma for as long as two to five years; asylum seekers— sad as it is to contemplate— may be at Mira Loma even longer.

Nearly fifty percent (48 percent) of detainees at Mira Loma declare Mexico as their country of origin. The next two countries declared most often are El Salvador (16 percent) and Guatemala (12 percent). The rest of detainees declare over 60 different nations as their countries of origin, as shown in the chart below. The top three regions that detainees self-declare are North America (48 percent), Central America (33 percent) and East Asia (4 percent). North America consists of Mexico and Canada (though less than one percent are Canadian detainees); Central American countries of origin consists of Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama; East Asia consists of China,



Hong Kong, Japan, Korea, and Taiwan. According to ICE, many of these detainees arrived in the United States on a green card but subsequently lost their legal status due to a criminal conviction.

Detainees at Mira Loma and in the federal detention system in general are classified into three levels. ICE conducts a pre-classification at its LA Staging Facility. A detainee's final classification is determined by LASD staff upon arriving at Mira Loma. Generally, LASD classifies a detainee the same way as ICE. Occasionally, LASD will declare an individual unfit to remain at Mira Loma due to his criminal history, such as a high propensity toward violence, a history of being assaultive toward staff, significant prison time, the presence of an escape risk, or significant gang issues. These detainees are turned over to ICE for transfer to another facility.



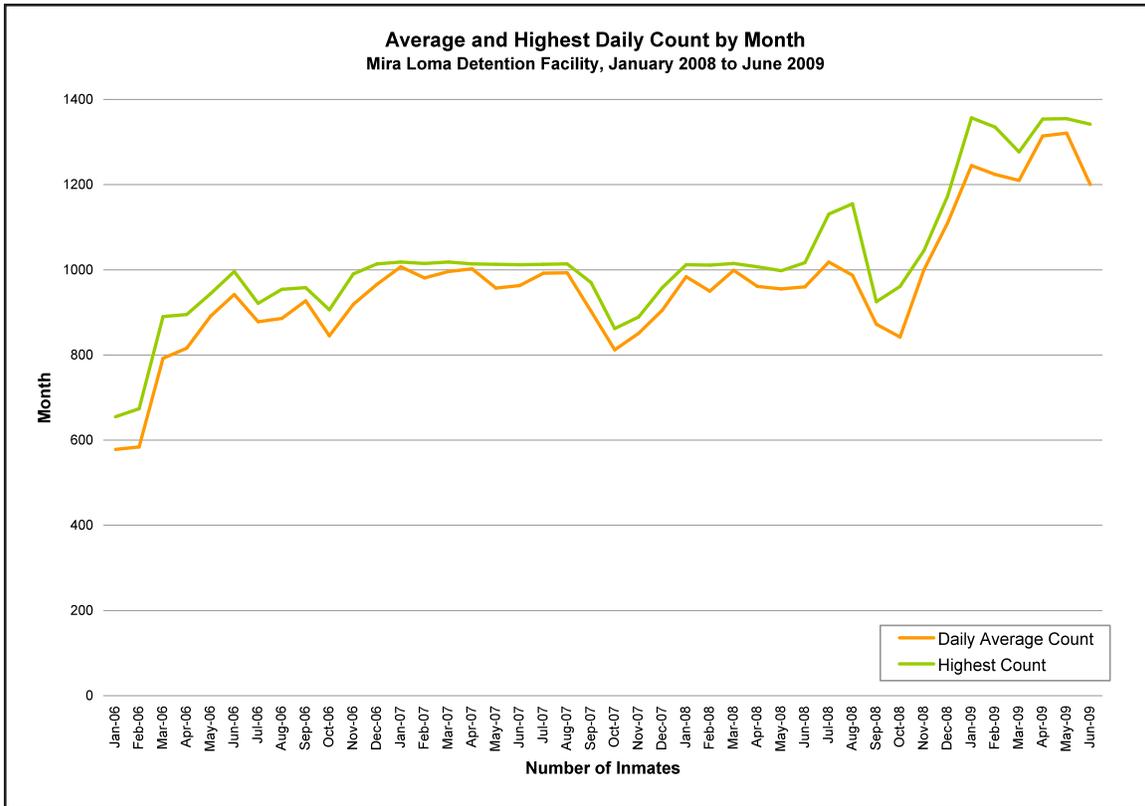
Level 1 (the inverse of ICE’s Level 1 in the jail) signifies an asylum seeker with no criminal record. It also includes detainees convicted for low-level misdemeanors or nonviolent felonies, such as disorderly conduct, trespass, or driving under the influence. They wear light green uniforms, similar to medical scrubs and, according to National De-

tention Standards, may not be housed with Level 3 detainees. Level 2 de-

Average Number of Detainees by Level of Classification			
	February 2009	March 2009	August 2009
Level 1	257	232	270
Level 2	528	493	589
Level 3	363	331	364
Total	1148	1056	1223

tainees have relatively minimal criminal records (e.g., burglary, grand theft, sale, delivery, and/or possession of a controlled substance) but may not include anyone with a history or pattern of violent assaults or a conviction for an assault on a correctional officer. They generally wear yellow uniforms. Level 3 detainees are considered to be more serious (e.g., importation or trafficking of controlled substances, armed robbery). They wear orange uniforms. Detainees are also classified according to administrative or disciplinary segregation, or if they have minor medical issues. There are more Level 2 detainees at Mira Loma than any other classification because it is a low to medium security facility. Levels 1 and 2 detainees are housed together at Mira Loma, and Levels 2 and 3 detainees are placed together. Levels 1 and 3 are never supposed to mix.

The chart below shows the average daily count and highest daily count at Mira Loma between January 2008 and June 2009. In 2008, the detainee population was approximately 1000; in the last year, a steady increase raised the daily count to approximately 1300 detainees.



Groups of Detainees

At any time at Mira Loma, there may be asserted gang members. Seriously dangerous or violent gang members are not housed at Mira Loma. Latino detainees who belonged to gangs are collectively labeled “Southsiders.” They are classified as Level 3 and housed in Barracks 9-11. They have access to the school, big yard, and library as a group, at different times from everyone else, along with separate times for pill call and sick call.

Another group at Mira Loma is called “Paisa,” derived from the Spanish word *Paisano*, which means countryman. It is a euphemism for field worker, migrant worker, or day laborer. In Mira Loma, these more vulnerable detainees band together for safety. This term is generally used by the LASD to refer to Latino detainees who are not Southsiders. Paisa are housed together.

Another group of detainees are called “Internationals.” These are non-Latino detainees and usually housed together for protection. On a sample day in 2009 at Mira Loma, there were 163 Southsiders, 784 Paisa, and 152 “Internationals.” On April 22, 2008, a fight broke out between Southsiders and Paisa at Mira Loma. Ten detainees were injured. The fight was quickly broken up by deputies, who applied tear gas.

If a new group of detainees, such as a large group of Chinese found in cargo containers, arrive at Mira Loma, the new group is then housed together and separately from the other detainees.

II. Areas of Detainee Needs and Services

A. Housing and Recreation Facilities

Mira Loma consists of sixteen general barracks housing 68 men on an average day, as well as an administrative barrack with 32 beds. Housing consists of two barracks and a common yard fenced in together, adjoining other such barracks and yard combinations. All the fenced-in barracks sit on the perimeter of a large yard used for soccer games and other recreational use. While there are currently two barracks per each fenced-in area, management at Mira Loma would prefer only one barrack per each fenced-in area to better compartmentalize the men should a fight break out.

Detainees are to have access to the yard area in front of each barrack daily between 7:00 AM and 10:00 PM, except for the noon count, 3:00 PM count, and special circumstances. Detainees also should have access to the big recreation yard for 40 minutes at various points throughout the morning, afternoon, and evening. We did not conduct an audit to confirm or refute the LASD’s compliance with these requirements.

At the back of each barrack is an officer’s observation room, separated by a wire mesh partition. There is one custody assistant assigned to each barrack per shift.

There are also up to eleven “Prowler Deputies” assigned in each shift, whose duties include security checks of multiple barracks. Generally in its facility staffing, management at Mira Loma states that there is an approximate overall ratio of two custody assistants for every one deputy (in contrast to Los Angeles County Jail’s asserted ratio of two deputies to one custody assistant.)

Upon arrival, each detainee receives a bunk bed and a locker adjoining his bed. There are four showers in each standard barrack—with stated unlimited daytime access—along with pay phones, mail and complaint boxes. TV is controlled remotely and on throughout the day. ICE reportedly conducts weekly checks of the barracks to ensure consulate phone numbers (which are free calls for the detainees) are working.

In Barrack 23, the administrative and disciplinary barrack, there are jail-like cells, with two men per cell. According to facility rules, food may not be used for discipline. Instead, discipline includes losing access to the main yard, TV viewing, vending machines, and the company of other detainees. Detainees in administrative and disciplinary segregation reportedly still have their own small outdoor exercise yard, attorney visits, library and visitor access. The longest a detainee is supposed to be confined to Barrack 23 is 58 days. LASD staff maintains a chart that is reviewed every seven days. After fifteen days, the Captain is reportedly notified for a review. Reasons for segregation in Barrack 23 include insubordination, lying, fighting, and stealing.

The LASD is currently painting and cleaning all the barracks. Progress is slow. Management states that it must wait for a barrack to be free of detainees before the task can be completed.

The “Inmate Services Building,” Building #4, houses the library, barber shop, school, and chapel, which is also used for art classes. There is another building used for recreation with an automated canteen and vending machine. It is here that inmates may meet with chaplains and ICE officials. The jail runs on a cash-

based system. Detainees may have \$70 on them for spending on vending and automated kiosks in the recreation room. The LASD hopes to transition to a cashless facility.

B. Meals

According to National Detention Standards, detainees must receive two hot meals a day. Thus detainees generally receive breakfast in the barracks each morning, consisting of a hot item, such as a burrito. Lunch, eaten in the barracks, is usually a sandwich, fruit and drink. Earlier this year, we were told that the men have twenty minutes to eat breakfast and lunch. Management currently maintains that the men may take as long as they want to eat these meals. Detainee workers receive a special meal two times a week. It is generally an enhanced hot meal for lunch. A hot dinner is served in the dining hall each night. Only one meal a day occurs in the dining hall because it can take two to three hours to walk all detainees to the dining hall, have a meal, and return. In the dining hall, detainees are segregated by their classification level. In addition, Internationals and Paisa will eat in the dining hall at the same time though seated separately. Southsiders are brought in when this first group finishes. Paisa and Internationals exit from a door different than the one the Southsiders enter from so that no contact can take place between the groups.

C. Health Care

Mira Loma is currently a “well facility,” with some prescriptions dispensed (e.g., antibiotics, oral diabetic medication). There is reportedly access to a nurse at the daily sick call, pill call up to four times a day, and a daily support trailer with a mini-clinic for workers. Dentists are said to be available five days a week. Mira Loma management contends that any medical issue that arises, whether during admission or at any point during detention, is evaluated by on-duty medical staff on a case-by-case basis. Management further states that if immediate attention is required and no doctor or registered nurse practitioner is available—such as in

the evenings or weekends—a detainee is immediately transferred to a local hospital emergency room. If a detainee is seriously or chronically ill, he is transferred to a different detention facility.

Resources for mental health incidents are lacking at Mira Loma. The LASD would like to have a mental health professional on-call within a two hour distance. (This strikes us as too long to respond to a mental health emergency.) At present, if there is a mental health incident, which averages four incidents per week, the detainee is transferred to another ICE facility for further assessment and treatment, due to lack of resources in Los Angeles County.

D. The Voluntary Work Program

Mira Loma runs a voluntary work program for qualifying detainees. Detainees can apply to be a worker while still in jail. They are then screened at the Inmate Reception Center before arriving at Mira Loma. Southsiders cannot be workers. Detainees are assigned to eight-hour shifts, with such duties as food preparation, landscaping, sparkler and minor waterline repair, concrete work and painting, janitorial work, serving as dorm orderlies, or assisting in the library, school or barber shop. In exchange, work detainees receive one extra hour of visiting time per week, special food twice a week, larger TVs with a VCR for movies in their barracks, additional showers, and vending machines inside the barrack. Instead of 68 men to a barrack, work barracks house 150 each in two connecting barracks (300 total). The barracks have their own vending machine and are VCR enhanced.

While these additional benefits are nice, one must not forget that these men are not inmates but rather are asylum seekers, persons charged with civil violations of immigration law, or detainees convicted of relatively minor offenses who would have already paid their price to society. Some might argue that since they are not serving criminal sentences and would otherwise have been released, the detainees should be paid a living wage for work they are now doing for the County's benefit for free.

The workplace risks they run can be serious. In December 2007, in a highly publicized incident, a detainee worker, Cesar Gonzales-Baeza, 35, was electrocuted when his jackhammer struck a high-voltage power line. The matter is currently under an Internal Affairs investigation. Since this incident, workers receive an orientation to their work assignments. Detainees now require permission to be posted to lawn mowing and weed whacking, the most dangerous of assigned duties.

E. Access Issues

Mira Loma uses the same system for receiving and processing inmate complaints as jail. If a detainee has a complaint about ICE, the LASD receives it and gives it to ICE. All complaints are tracked.¹

A relatively frequent complaint is that personal property is lost upon transfer to Mira Loma from ICE's Los Angeles Staging Facility. According to ICE, property may be delayed but eventually arrives at Mira Loma. According to outside sources, lost cash and physical property are significant problems when detainees are transferred from ICE to Mira Loma, and complaints are not followed up.

Telephone access at Mira Loma is similar to that at jail. Calls can only be made with phone cards or collect. Phones are located in the barracks.² Detainees in the barracks have access to mail and complaint boxes throughout the day, except when they are required to be on their bunks (i.e., during count, lockdowns or after lights out). Detainees may send unlimited amounts of legal and personal mail. All mail is screened at Inmate Services. Mail regulations at Mira Loma are a hybrid of Title 15 and National Detentions Standards.

By National Detention Standards, detainees must have one hour of daily access to outside time, five days a week, except during lock down, pill count, or lights out. This usually amounts to at least two times a day of outside time, for a one

¹ For a fuller description of jail procedures on inmate complaints, see the LASD's 25th Semiannual Report, July 2008, pages 71-111, at http://www.parc.info/client_files/LASD/25th%20SAR.pdf.

² For a fuller description of jail procedures on telephone access, see the LASD's 26th Semiannual Report, February 2009, pages 63-64 and 96-97 at http://www.parc.info/client_files/LASD/26th%20Semiannual%20Report.pdf.

hour minimum. We did not conduct an audit to confirm or refute the actual availability of outside time. Available outside activities include soccer, basketball, and access to the recreation room and vending machines.

As provided by national guidelines, detainees should be able to make free calls to an ICE/DRO-provided list of free legal service providers to obtain initial legal representation. They should also be able to make free calls to their consulate. In addition, a bus reportedly takes detainees to Los Angeles to meet with various consulates, such as the Guatemalan, Honduran, and El Salvadorian Consulates, in order to discuss travel needs and conduct interviews.

F. Visitation

Mira Loma management states that detainees may meet with retained lawyers at any time. Most visits occur in the Attorney/Visiting Room, where attorney and client meet behind glass partitions without physical contact. If an attorney requires a document to be signed, a staff member will pass documents between the detainee and his counsel. This is the same room that all other visits occur, such as family visits, and so the room can become noisy and has little privacy. If the visiting room is full or noisy, attorneys may utilize a small room off the Main Control lobby, after approval by the Watch Commander. In this room, the lawyer and detainee have privacy and no partitions. A deputy is posted adjacent to the closed door to ensure no contraband or weapons are passed. This room is not ideal for visits from the Department's perspective, because it is outside of the inner security fence line and therefore more difficult from a security standpoint to get the detainee in and out of the room. **Mira Loma could benefit from an Attorney Room separate from the regular Visitor Room, enabling attorney-client privacy and constructed so as to minimize security concerns. We so recommend.**

As stated above, all non-attorney visits occur in the Visitor's Room behind glass. A family has three benches on one side of a glass partition. **There is never physical contact, even for children, no matter how long a detainee is at Mira Loma**

and no matter the proximity of impending deportation. The reason is fear of contraband. As a result, the glass partition not only extends in front of the detainee and his family, but above them as well, creating a sort of cage. At court, in the central hallway, detainees and families can speak from different sides of the hallway, but may never touch, even after a court hearing rules for immediate deportation. These restrictions are unnecessary and cruel. Persons held at Mira Loma are not prisoners but are merely detainees. Legitimate fears of contraband can be handled in other ways, including metal detectors and searches of visitors. **We recommend that detainees receive physical contact with their families.**

Visitors usually wait a half-hour to one hour, with longer stretches in warmer weather. There is discussion of initiating a scheduled visiting system. **We recommend a scheduled visiting system, as visitors to Mira Loma may travel great distances on the weekends to be there.** Visiting days are Saturday and Sunday, from 7:00 AM – 3:00 PM, and on major holidays. General detainees may have one one-hour visit a week; workers receive two one-hour visits, broken up to each day of the weekend. With the Mira Loma population approaching 1300, there can be overcrowding on visiting days. As a result, the LASD is considering opening up another day.

G. *Programs and Education*

The library is supposed to be open Monday through Friday. Hacienda School District runs the library and also provides all classes. The library has free Lexis-Nexis, though the librarian herself is not trained in the program. Library hours are from 7:30 AM – 4:00 PM, Monday through Friday. It is accessible in two one-hour blocks available each day for pro se detainees or during yard time. There is also a law library computer available inside the Administration Segregation/Discipline Unit for those housed there, available in the day and evening.

Detainees working on their case may come in at the start of the library's hours and assertedly can work for as long as the like. It is also said to be available to any detainee during yard time in the morning and afternoon, as well as for two

hours in the evening where detainees can sign up for additional library time. In the past, if the sole librarian was sick or on vacation, the library was shut down entirely. This was a significant problem for the pro se detainee population that relied on the library to research their legal case and mail legal filings by their deadline. We are pleased to note that Inmate Services Personnel have promised that it will now notify facility supervision if the librarian is unavailable and another staff member will provide law library access on that day. If this plan indeed results in the law library being accessible every day, we commend Mira Loma personnel for this solution.

There also appears to be a problem for non-officially registered pro se detainees. If a detainee at any point consults with a lawyer, even if that lawyer is not officially retained, and this initial consultation is noted in the facility computer database, that detainee is no longer considered pro se, even if he ultimately represents himself without legal aid. If a detainee is not officially registered with the LASD as pro se, he may not have unlimited access to the library to research his case. His time is limited with the rest of the population to one hour a day during yard time. This is important because under current law detainees have no right to representation by counsel free of charge. Access to legal resources is therefore especially important for this population. We recommend that this problem be solved in favor of treating such individuals as pro se detainees.

Detainees may borrow one book at a time from the library. After two months, they may borrow two books. As an incentive against books being borrowed indefinitely or lost, if a detainee finds five lost books, he may receive an extra book. A thousand books are in circulation at any one time. Languages of books provided include: Armenian, Cambodian, Chinese, French, German, Hebrew, Italian, Japanese, Laotian, Persian, Spanish, and Vietnamese. Most of the materials are in English, with some self-help packets in Spanish.

Classes are scheduled to run throughout the day, five days a week, all year round. Art (at various levels), computer, and GED classes are available in morning and afternoon sessions, with a break for lunch. School is available during yard time. The average reading level is between the fourth and seventh grade. There is ADA credit for some maintenance classes. AA and religious services are available in the evening.

The Esperanza Immigrant Rights Project, run by Catholic Charities of Los Angeles, is the only outside agency that visits Mira Loma regularly. See *Chapter 1* for a description of their immigration law classes and counseling for inmates. At Esperanza's request, the Legal Orientation Program is now available five days a week, from approximately 8:00 AM to 3:00 PM.

III. Removal Proceedings

There are three courtrooms at Mira Loma. Approximately forty to sixty cases are heard each day—or roughly 800 a month—by three judges, one of whom is a “video” judge. **We are concerned about the few numbers of judges available, in contrast to the caseload.** There is only one Spanish-speaking translator; ICE must outsource for translators in other languages. A detainee generally waits six to eight weeks from the time of his arrival until his first master calendar hearing. The wait varies based on the number and types of new cases presented at that time.

While many cases are decided at the first hearing, the remaining cases usually take between four to six months to complete, depending on the complexity of the individual case. In those cases in which a detainee can leave on bond, and the bond is posted in downtown Los Angeles, a detainee is released between 4:00 PM and 6:00 PM the same day. The length of time from final verdict until actual removal varies depending on a number of factors, such as the country of origin, passport and travel document requirements, and the aid of the detainee in securing a valid travel document. For example, Mexican nationals generally leave

Mira Loma within 24 hours of a final verdict. Detainees from countries in which ICE has a scheduled removal via ICE chartered flights, such as Guatemala, Honduras and El Salvador, are removed monthly. Detainees from other countries usually take four to six weeks until removal.

In September 2005, 950 detainees protested delays in the hearing process. Promises were made by ICE to improve the situation. According to ICE, after these protests, the hearing process was hastened from twelve weeks from a detainee's arrival at Mira Loma until his first master calendar hearing to approximately six to eight weeks.³

When an ICE officer initially interviews a detainee, he or she determines the recommended course of action to take based on available immigration documents, detainee statements, criminal conviction, and court records. If certain criteria are met, the officer may offer the detainee the option of voluntary removal to their country. If the detainee accepts, he is processed accordingly. Those detainees who are not eligible or decline the offer are instead processed for hearings before an Immigration Judge, who may also grant voluntary removal again after reviewing the case. In addition to voluntary removal, there is stipulated removal.

Stipulated removal occurs at Mira Loma after the initial interview, voluntary removal consideration, and custody determinations are completed. ICE officers, lawyers from the Office of Chief Counsel, and an Immigration Judge all review the case. Under this scenario, an Immigration Judge processes an actual order of removal. Stipulated removals hasten the hearing process by fifteen to twenty

³ Although a six to eight week detention until an initial calendar hearing is a significant improvement for detainees from the 12 weeks they had to wait prior to September 2005, it is still unacceptably long. Under *Demore v. Kim*, 538 U.S. 510 (2003), the Supreme Court found that a detainee could be held "for the limited period of his removal proceedings," but cited statistics of an average total detention period far shorter than that of Mira Loma detainees. The Court noted, "The Executive Office for Immigration Review has calculated that, in 85% of the cases in which aliens are detained...removal proceedings are completed in an average time of 47 days and a median of 30 days...In the remaining 15% of cases, in which the alien appeals the decision of the Immigration Judge to the Board of Immigration Appeals, appeal takes an average of four months, with a median time that is slightly shorter." At Mira Loma, the average time just to see a judge is 60 days. While the Court did not address what constitutes a constitutionally acceptable time period for detention proceedings, the Court seemed comfortable with a hearing process far shorter than those faced by Mira Loma detainees. We believe the best way to improve the hearing situation in keeping with the Court's ruling is for ICE to post additional immigration judges at Mira Loma immediately.

days. An average of 110 detainees leave the United States by stipulated removal each month and 15 by voluntary removal.⁴

If a detainee is to return home by plane, federal regulations permit only one square box of possessions. If an immigrant has suitcases, he must leave them behind. A family may bring new clothes for the detainee to change into, which is kept in a clothing storage facility at Mira Loma. This is useful in instances where a detainee was arrested in migrant worker clothes.

If a detainee wins his case and there is no appeal, the detainee is released that day. According to ICE, an ICE official who has worked with the detainee transports him to a bus or train station, or possibly to downtown Los Angeles or to his home. According to an outside source, however, release does not occur quite so smoothly. For one, the timing of the release is problematic. If a detainee obtains a release, he is usually dropped off at the Lancaster train station at around 6 PM, after the last trains and buses have left for the day. That person must scramble to contact family and friends to arrange for transportation out of Lancaster. Otherwise, the detainee finds he is alone at the station overnight. This is not only potentially dangerous but cold in the winter months, with temperatures dropping on average to the low 30s, high 20s during the night. **We recommend that detainees have the option to spend an additional night at Mira Loma and be taken to the bus or trains first thing the following morning, to avoid this situation.**

Conclusion

Mira Loma, from our observations, is a well-run, well managed jail under a highly professional manager, Captain Rod Penner, and an able staff. It is not a grim or gruesome facility. Indeed, it is bright and sunny, with well lit barracks scattered around lots of open space. In many ways, it is a model for a low to medium security jail. But that's the problem: it is a jail. The detainees follow a

⁴ Information provided to us in July 2009 by ICE.

routine appropriate for convicts. Detainees, however, are not convicts serving sentences but rather are asylum-seekers, individuals charged with civil violations of immigration laws, and persons who already have served time for any crime they may have committed in the past. The conditions of confinement should better reflect their status as detainees, especially because 22 percent appear to be persons with no serious criminal background, including asylum-seekers, and migrant workers and day laborers seeking to support relatives at home or family here. We have made specific recommendations in this chapter respecting unfettered attorney contact, physical contact with family members, scheduling of visitation, and increased numbers of immigration judges. Some of these recommendations are ones that the County can fulfill; others are under the control of ICE. Given that Los Angeles County is under no compulsion to house detainees, but does so—among other reasons—because it is a profit center, the County’s bargaining power can be used to make Mira Loma more of a detention center and less of a jail.